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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/885,777

06/20/2001

Rogelio Peon

PEON 5-1-3

3651

7590

08/15/2005

William H. Murray, Esquire
Duane, Morris & Heckscher LLP
One Liberty Place
Philadelphia, PA 19103-7396

EXAMINER

MEEK, JACOB M

ART UNIT

PAPER NUMBER

2637

DATE MAILED: 08/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/885,777

Applicant(s)

PEON ET AL.

Examiner

Jacob Meek

Art Unit

2637

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 July 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: Claims 2 and 14 add limitations. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: 3 - 5, 15 - 17.
Claim(s) objected to: 6 - 12, 18 - 20.
Claim(s) rejected: 1, 2, 13 and 14.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see continuation page.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____


JAY K. PATEL
SUPERVISORY PATENT EXAMINER

Response to Arguments

1. Applicant's arguments filed 7/21/05 have been fully considered but they are not persuasive.
2. With regard to claim 1, Examiner acknowledges applicant's argument with regard to the Ushirokawa reference as cited (page 9, section III). Further review of the Ushirokawa reference (see Figure 7, labeled prior art) shows the configuration being argued by applicant and the reference must be considered as a whole.
3. With regard to claim 1, applicant's arguments regarding AMI (page 10). Ushirokawa discloses his system is useful for the reception of digital signals from a transmission channel. AMI is a known form of bipolar data transmission and is therefore interpreted by examiner as being covered by Ushirokawa's disclosure. With regard to special properties of correlation of AMI signals, reading the claims as written does not allow examiner to consider this argument regarding the disclosure in the specification. Claims are considered without reading the specification into them, and therefore, while disclosed in the specification it is not present in the claims.
4. With regard to claim 2, applicant's argument regarding autocorrelation as taught by Ushirokawa. Further review of the Ushirokawa reference (see Figure 7, labeled prior art) shows the configuration being argued by applicant, and the reference must be considered as a whole. Examiner further notes that correlation detection is defined by IEEE 100, The Authoritative Dictionary of IEEE Standards Terms as:
Correlation detection (modulation systems): Detection based on the averaged product of the received signal and a locally generated function possessing some known characteristic of the transmitted wave. Notes: 1). The averaged product can be formed, for example, by multiplying and integrating, or by the use of a matched filter whose impulse response, when reversed in time, is the locally generated function. 2). Strictly, the Foregoing definition applies to detection based on cross correlation. The term correlation detection may also apply to detection involving autocorrelation, in which case the locally generated function is merely a delayed form of the received signal. (Std100) [123]

Therefore, examiner interprets correlation as including autocorrelation as defined by IEEE, and in view of cited prior art as disclosed in Ushirokawa.

JMM
8/11/05